

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Whitney Beber	Team: Squad #6	CCRB Case #: 201905055	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/05/2019 10:30 AM	Location of Incident: § 87(2)(b)	Precinct: 06	18 Mo. SOL 10/5/2020	EO SOL 5/22/2021	
Date/Time CV Reported Tue, 06/11/2019 2:06 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Tue, 06/11/2019 2:06 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jackson Fontana	11437	960550	006 PCT
2. POM John Oneill	10463	959001	006 PCT
3. An officer			006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jackson Fontana	Abuse: Police Officer Jackson Fontana entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.POM John Oneill	Abuse: Police Officer John Oneill entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
C. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon ethnicity.	§ 87(2)(b)

Case Summary

On June 11, 2019, the CCRB received § 87(2)(b)'s complaint via mail.

On April 5, 2019, at approximately 10:30 a.m. the landlord of § 87(2)(b) § 87(2)(b) in Manhattan, § 87(2)(b) along with her employees, went to § 87(2)(b)'s apartment, § 87(2)(b). § 87(2)(b)'s friend, § 87(2)(b) was in the apartment at the time and § 87(2)(b) instructed him to not let anyone inside. Once § 87(2)(b) denied § 87(2)(b) entry into the apartment, she called the police.

PO Jackson Fontana and PO John Oneill of the 6th Precinct responded. The officers told § 87(2)(b) they needed to let § 87(2)(b) enter. After presenting a court document, § 87(2)(b) allowed § 87(2)(b) and PO Fontana and PO Oneill inside (**Allegations A and B, Abuse of Authority, § 87(2)(g)**). While speaking to an unidentified officer § 87(2)(b) said, "Maybe it's because I'm black." An officer allegedly replied, "You people are always playing the race card" (**Allegation C, Offensive Language, § 87(2)(g)**). § 87(2)(b) arrived approximately 90 minutes after the officers entered the apartment.

No arrest was made nor summons issued during this incident. § 87(2)(b) provided two videos he recorded on his cellphone (BR 01 and 02). There was no BWC available.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Jackson Fontana entered § 87(2)(b) § 87(2)(b) in Manhattan.

Allegation (B) Abuse of Authority: Police Officer John Oneill entered § 87(2)(b) § 87(2)(b) in Manhattan.

This case was consulted with an attorney.

§ 87(2)(b) testified that on April 5, 2019 he asked his friend, § 87(2)(b) to housesit. § 87(2)(b) received a call from § 87(2)(b) later that day stating that he let PO Fontana, PO Oneill, § 87(2)(b) private detective § 87(2)(b) boiler technician § 87(2)(b) and building superintendent Louis § 87(2)(b) in § 87(2)(b)'s apartment. § 87(2)(b) returned to his apartment and the officers, who were already inside his residence, told him that § 87(2)(b) had a court order. They did not say how they entered. During his interview, § 87(2)(b) provided a court order titled Consent Order and Judgement from the Department of Housing Preservation and Development of the City of New York (BR09). The document did not provide explicit consent for the landlord to enter.

§ 87(2)(b) testified that § 87(2)(b) told him to housesit and not let § 87(2)(b) in his apartment. After § 87(2)(b) left, § 87(2)(b) arrived with a court order and told § 87(2)(b) she was there to correct an issue. § 87(2)(b) told § 87(2)(b) that § 87(2)(b) asked not to allow her inside. § 87(2)(b) § 87(2)(b) called 911 and PO Fontana and PO Oneill responded. PO Fontana and PO Oneill told § 87(2)(b) § 87(2)(b) that § 87(2)(b) had a legal order and instructed him to allow her to enter. § 87(2)(b) moved out of the way and § 87(2)(b) entered with § 87(2)(b) and § 87(2)(b). One officer entered while the second officer entered the residence later in the incident. The officers never asked permission to enter and § 87(2)(b) never provided verbal consent. The officers did not have § 87(2)(b) sign any forms consenting to their entry.

§ 87(2)(b) stated that when he, § 87(2)(b) and § 87(2)(b) arrived at § 87(2)(b) § 87(2)(b)'s apartment, § 87(2)(b) refused to allow them inside. § 87(2)(b) called 911 and PO Fontana and PO Oneill responded. The officers determined § 87(2)(b) was not the tenant and asked him to step into the hallway. § 87(2)(b) complied and told the officer he was housesitting. § 87(2)(b) § 87(2)(b) provided a court order to the officers and which he stated permitted them to enter due to a

hazardous condition. § 87(2)(b) subsequently let them all inside. § 87(2)(b) arrived 10 minutes after the entry.

§ 87(2)(b)'s statement was consistent with that of § 87(2)(b). § 87(2)(b) did not remember if § 87(2)(b) provided verbal consent when he allowed her to enter. § 87(2)(b) provided an Order and Notice of Violation regarding § 87(2)(b)'s residence which she cited as the court order in her statement (BR10). This document was dated after the incident, therefore the investigation determined that it was not the document she showed during the incident.

As § 87(2)(b) did not remember officers being at the location on this date, no statement was obtained from him. In addition, § 87(2)(b) was uncooperative in providing a statement.

PO Fontana testified that he and PO Oneill received a 311 job that a landlord needed to enter an apartment for work purposes and requested police presence. When they arrived, § 87(2)(b) presented the officers with a court order that explained she needed to run the hot water in § 87(2)(b)'s apartment because of a safety hazard. Both PO Fontana and PO Oneill read the paperwork, but PO Fontana did not remember what the documents noted. § 87(2)(b) told the officers she was frightened by § 87(2)(b) as he was aggressive. PO Fontana, PO Oneill and § 87(2)(b) went to § 87(2)(b)'s apartment and saw § 87(2)(b) standing in the hallway. After PO Fontana confirmed § 87(2)(b) was not a resident, he asked him to step aside, which he did. The officers told § 87(2)(b) that § 87(2)(b) needed to run the hot water and asked if he would let § 87(2)(b) inside. § 87(2)(b) replied, "Sure," and allowed them to enter by opening the door and stepping aside. PO Fontana and PO Oneill stood inside the doorway of the apartment. § 87(2)(b) never asked the officers to leave the apartment. Ultimately PO Fontana entered the apartment for § 87(2)(b)'s safety while she ran the hot water. During PO Fontana's CCRB interview, he was presented the court order § 87(2)(b) provided to the investigation. He testified that was not the document shown during the incident.

PO Oneill's statement was largely consistent with PO Fontana's with the following exceptions. § 87(2)(b) did not present a court order or any documentation that granted her access to § 87(2)(b)'s apartment. He confirmed that § 87(2)(b) arrived after the entry. Initially § 87(2)(b) told § 87(2)(b) she was not allowed in the apartment, but he eventually opened the door and everyone including the officers walked in.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

Allegation (C) Offensive Language: An officer made remarks to § 87(2)(b) based upon ethnicity.

§ 87(2)(b) alleged that during a conversation with one of the officers, he remarked, “Maybe it’s because I’m black.” The officer responded, “You people are always playing the race card.” § 87(2)(b) described this officer as a uniformed white male with an average build. He stated he was shorter than 5’7” tall and younger than in his mid-30s. He described the other officer as an approximately 5’7” tall uniformed white male in his early to mid-30s with an average build.

§ 87(2)(b) stated that when he arrived at his apartment, § 87(2)(b) left. Neither he nor § 87(2)(b) testified that they heard an officer say to § 87(2)(b) “You people always play the race card.” As noted, § 87(2)(b) did not remember officers being at the location and § 87(2)(b) was uncooperative.

PO Oneill did not remember having a conversation with § 87(2)(b) and he did not tell him “you people are always playing the race card,” or hear PO Fontana make that statement. PO Fontana was consistent that neither he nor PO Oneill made that statement.

PO Fontana’s photograph notes that he is a § 87(2)(b)-old, 5’8” tall, 180-pound white male with blue eyes, blonde hair and average build (BR07). PO Oneill’s photograph notes that he is a § 87(2)(b)-old, 6’2” tall, 210-pound white male with blue eyes, brown hair and average build (BR07).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR03).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR04).
- PO Fontana has been a member of service for four years and this is the first CCRB complaint to which he has been a subject.
- PO Oneill has been a member of service for four years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) chose to have this case investigated.
- § 87(2)(b) filed a Notice of Claim with NYC claiming that PO Fontana and PO Oneill entered his home with his landlord and other individuals without any authority to do so and seeking one million dollars as redress (BR05). There is no 50H hearing scheduled.
- As of January 2, 2020, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint by § 87(2)(b) (BR06).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date